Author and Title Index

Volume 64
2003

Lead Articles—Authors

Keynote Address:
Thorny Issues and Slippery Slopes:
Perspectives on Judicial Independence
The Honorable Shirley S. Abrahamson 3

New Opportunities for Obtaining and Using
Litigation Reserves and Disclosures
Matthew J. Barrett 1183

Judicial Elections and Judicial Independence:
The Voter's Perspective
Lawrence Baum 13

Recalibrating Federal Judicial Independence
James J. Brudney 149

Foreword: Perspectives on Judicial Independence
James J. Brudney & Lawrence Baum 1

What Do We Mean by "Judicial Independence"?
Stephen B. Burbank 323

Eminent Domain Economics:
Should "Just Compensation" Be Abolished, and
Would "Takings Insurance" Work Instead?
Steve P. Calandrillo 451

Know Before You Go:
A Case for Publicly Funded Voters' Guides
Cynthia Canary 81

Thoughts on Goldilocks and Judicial Independence
Frank B. Cross 195

Regulatory Givings and the Anticommons
Reza Dibadj 1041

Judicial Independence and the Ambiguity of
Article III Protections
Tracey E. George 221

Why Judicial Elections Stink
Charles Gardner Geyh 43

Judicial Independence Through the Lens of *Bush v. Gore*:
Four Lessons from Political Science
Howard Gillman 249

Public Funding of Judicial Elections:
The Role of Judges and the Rules of Campaign Finance
Deborah Goldberg 95

Counselor, Gatekeeper, Shareholder, Thief:
Why Attorneys Who Invest in Their Clients in a Post-Enron
World Are "Selling Out," Not "Buying In"
Christine Hurt 897

When Freedom Isn't Free:
The Costs of Judicial Independence in *Bush v. Gore*
Pamela S. Karlan 265

Mercy, Rehabilitation, and Quid Pro Quo: A Radical
Reassessment of Individual Bankruptcy
Jason J. Kilborn 855

The Right to a Jury Decision on Questions of
Fact Under the Seventh Amendment
Paul F. Kirgis 1125

Possibilities for Collaborative Law:
Ethics and Practice of Lawyer Disqualification and
Process Control in a New Model of Lawyering
John Lande 1315

The Interplay Between Norms and
Enforcement in Tax Compliance
Leandra Lederman 1453

From Social Friction to Social Meaning:
What Expressive Uses of Code Tell Us
About Free Speech
David McGowan 1515

In Defense of the Corpus Delicti Rule
David A. Moran 817

Einstein on the Bench?:
Exposing What Judges Do Not KnowAbout Science and
Using Child Abuse Cases to Improve How Courts
Understand and Evaluate Scientific Evidence
Joëlle Anne Moreno 531

Commentary: The Role of the Organized Bar in Promoting an
Independent and Accountable Judiciary
D. Dudley Oldham & Seth S. Andersen 341

Toward a Multiple Party Representation Model:
Moderating Power Disparity
Henry Ordower 1263

A Normative Appraisal of Social Scientific Knowledge
Regarding Judicial Independence
Terri Peretti 349

Keynote Speech:
Electoral Accountability and Judicial Independence
The Honorable Thomas R. Phillips 137

Yet Another Article on *Bush v. Gore*
Ronald D. Rotunda 283

Proposed Legislation on Judicial Election Campaign Finance
Roy Schotland 127

Private Lawmaking
David V. Snyder 371

Re-Examining the Constitutionality of Remittitur
Under the Seventh Amendment
Suja A. Thomas 731

The Prevention Justification for Affirmative Action
Michael J. Yelnosky 1385

Lead Articles—Titles

Commentary: The Role of the Organized Bar in Promoting an Independent and Accountable Judiciary
D. Dudley Oldham & Seth S. Andersen 341

Counselor, Gatekeeper, Shareholder, Thief: Why Attorneys Who Invest in Their Clients in a Post-Enron World Are "Selling Out," Not "Buying In"
Christine Hurt 897

Keynote Speech: Electoral Accountability and Judicial Independence
The Honorable Thomas R. Phillips 137

Einstein on the Bench?: Exposing What Judges Do Not KnowAbout Science and Using Child Abuse Cases to Improve How Courts Understand and Evaluate Scientific Evidence
Joëlle Anne Moreno 531

Eminent Domain Economics: Should "Just Compensation" Be Abolished, and Would "Takings Insurance" Work Instead?
Steve P. Calandrillo 451

Foreword: Perspectives on Judicial Independence
James J. Brudney & Lawrence Baum 1

From Social Friction to Social Meaning: What Expressive Uses of Code Tell Us About Free Speech
David McGowan 1515

In Defense of the Corpus Delicti Rule
David A. Moran 817

The Interplay Between Norms and Enforcement in Tax Compliance
Leandra Lederman 1453

Judicial Elections and Judicial Independence:
The Voter's Perspective
Lawrence Baum 13

Judicial Independence and the Ambiguity of
Article III Protections
Tracey E. George 221

Judicial Independence Through the Lens of *Bush v. Gore*:
Four Lessons from Political Science
Howard Gillman 249

Know Before You Go:
A Case for Publicly Funded Voters' Guides
Cynthia Canary 81

Mercy, Rehabilitation, and Quid Pro Quo: A Radical
Reassessment of Individual Bankruptcy
Jason J. Kilborn 855

New Opportunities for Obtaining and Using
Litigation Reserves and Disclosures
Matthew J. Barrett 1183

A Normative Appraisal of Social Scientific Knowledge
Regarding Judicial Independence
Terri Peretti 349

The Prevention Justification for Affirmative Action
Michael J. Yelnosky 1385

Possibilities for Collaborative Law:
Ethics and Practice of Lawyer Disqualification and
Process Control in a New Model of Lawyering
John Lande 1315

Private Lawmaking
David V. Snyder 371

Proposed Legislation on Judicial Election Campaign Finance
Roy Schotland 127

Public Funding of Judicial Elections:
The Role of Judges and the Rules of Campaign Finance
Deborah Goldberg 95

Recalibrating Federal Judicial Independence
James J. Brudney 149

Re-Examining the Constitutionality of Remittitur
Under the Seventh Amendment
Suja A. Thomas 731

Regulatory Givings and the Anticommons
Reza Dibadj 1041

The Right to a Jury Decision on Questions of
Fact Under the Seventh Amendment
Paul F. Kirgis 1125

Keynote Address:
Thorny Issues and Slippery Slopes:
Perspectives on Judicial Independence
The Honorable Shirley S. Abrahamson 3

Thoughts on Goldilocks and Judicial Independence
Frank B. Cross 195

Toward a Multiple Party Representation Model:
Moderating Power Disparity
Henry Ordower 1263

What Do We Mean by "Judicial Independence"?
Stephen B. Burbank 323

When Freedom Isn't Free:
The Costs of Judicial Independence in *Bush v. Gore*
Pamela S. Karlan 265

Why Judicial Elections Stink
Charles Gardner Geyh 43

Yet Another Article on *Bush v. Gore*
Ronald D. Rotunda 283

Essay

The Ohio Motto Survives the Establishment Clause
The Honorable Richard F. Suhrheinrich & T. Melinda Bush 585

Notes

Concurrent Use of Trademarks on the Internet:
Reconciling the Concept of Geographically Delimited
Trademarks with the Reality of the Internet
Robert Nupp.....617

Guaranteeing High Prices by Guaranteeing
the Lowest Price
Matthew C. Corcoran 1427

Invasion of Privacy for the Greater Good:
Why *Bartnicki v. Vopper* Disserves the Right of
Privacy and the First Amendment
Ryan Kilkenney 999

Is Richmond Newspapers in Peril After 9/11?
Howard W. Chu 1655

Is There Still a "Sound Legal Basis?":
The Freedom of Information Act in the
Post-9/11 World
Keith Anderson 1605

May I Be Recused? The Tension Between
Judicial Campaign Speech and Recusal After
Republican Party of Minnesota v. White
Matthew D. Besser.....1197

A One Way Street to Unconstitutionality:
The "Choose Life" Specialty License Plate:
Sarah E. Hurst 957

The Religious Freedom Peace Tax Fund Act: Becoming
Conscious of the Need to Accommodate Conscience
Colleen M. Garrity..... 1229

The Straw that Broke the Camel's Back?
Grand Staircase-Escalante National Monument
Antiquates the Antiquities Act
Eric C. Rusnak 669

Subject Index

Volume 64
2003

Accounting

New Opportunities for Obtaining and Using
Litigation Reserves and Disclosures
Matthew J. Barrett 1183

Administrative Law

Regulatory Givings and the Anticommons
Reza Dibadj 1041

The Straw that Broke the Camel's Back?
Grand Staircase-Escalante National Monument
Antiquates the Antiquities Act
Eric C. Rusnak 669

Affirmative Action

The Prevention Justification for Affirmative Action
Michael J. Yelnosky 1385

Alternative Dispute Resolution

Possibilities for Collaborative Law:
Ethics and Practice of Lawyer Disqualification and
Process Control in a New Model of Lawyering
John Lande 1315

Anti Trust

Guaranteeing High Prices by Guaranteeing
the Lowest Price
Matthew C. Corcoran 1427

Bankruptcy

New Opportunities for Obtaining and Using
Litigation Reserves and Disclosures
Matthew J. Barrett 1183

Mercy, Rehabilitation, and Quid Pro Quo: A Radical Reassessment of Individual Bankruptcy
Jason J. Kilborn 855

Civil Procedure

New Opportunities for Obtaining and Using Litigation Reserves and Disclosures
Matthew J. Barrett 1183

The Right to a Jury Decision on Questions of Fact Under the Seventh Amendment
Paul F. Kirgis 1125

Einstein on the Bench?: Exposing What Judges Do Not Know About Science and Using Child Abuse Cases to Improve How Courts Understand and Evaluate Scientific Evidence
Joëlle Anne Moreno 531

Re-Examining the Constitutionality of Remittitur Under the Seventh Amendment
Suja A. Thomas 731

Civil Rights Law

The Prevention Justification for Affirmative Action
Michael J. Yelnosky 1385

Contract Law

Private Lawmaking
David V. Snyder 371

Constitutional Law

Is There Still a "Sound Legal Basis?": The Freedom of Information Act in the Post-9/11 World
Keith Anderson 1605

May I Be Recused? The Tension Between
Judicial Campaign Speech and Recusal After
Republican Party of Minnesota v. White
Matthew D. Besser 1197

Eminent Domain Economics:
Should "Just Compensation" Be Abolished, and
Would "Takings Insurance" Work Instead?
Steve P. Calandrillo 451

Is Richmond Newspapers in Peril After 9/11?
Howard W. Chu 1655

Regulatory Givings and the Anticommons
Reza Dibadj 1041

The Religious Freedom Peace Tax Fund Act: Becoming
Conscious of the Need to Accommodate Conscience
Colleen M. Garrity 1229

Judicial Independence and the Ambiguity of
Article III Protections
Tracey E. George 221

Judicial Independence Through the Lens of *Bush v. Gore*:
Four Lessons from Political Science
Howard Gillman 249

A One Way Street to Unconstitutionality:
The "Choose Life" Specialty License Plate
Sarah E. Hurst 957

When Freedom Isn't Free:
The Costs of Judicial Independence in *Bush v. Gore*
Pamela S. Karlan 265

Invasion of Privacy for the Greater Good:
Why *Bartnicki v. Vopper* Disserves the Right of
Privacy and the First Amendment
Ryan Kilkenney 999

The Right to a Jury Decision on Questions of
Fact Under the Seventh Amendment
Paul F. Kirgis 1125

From Social Friction to Social Meaning:
What Expressive Uses of Code Tell Us
About Free Speech
David McGowan 1515

In Defense of the Corpus Delicti Rule
David A. Moran 817

Yet Another Article on *Bush v. Gore*
Ronald D. Rotunda 283

The Ohio Motto Survives the Establishment Clause
The Honorable Richard F. Suhrheinrich & T. Melinda Bush 585

Re-Examining the Constitutionality of Remittitur
Under the Seventh Amendment
Suja A. Thomas 731

Corporate Law

New Opportunities for Obtaining and Using
Litigation Reserves and Disclosures
Matthew J. Barrett 1183

Counselor, Gatekeeper, Shareholder, Thief:
Why Attorneys Who Invest in Their Clients in a Post-Enron
World Are "Selling Out," Not "Buying In"
Christine Hurt 897

Criminal Procedure

In Defense of the Corpus Delicti Rule
David A. Moran 817

Einstein on the Bench?:
Exposing What Judges Do Not KnowAbout Science and
Using Child Abuse Cases to Improve How Courts
Understand and Evaluate Scientific Evidence
Joëlle Anne Moreno 531

Election Law

Judicial Elections and Judicial Independence:
The Voter's Perspective
Lawrence Baum 13

May I Be Recused? The Tension Between
Judicial Campaign Speech and Recusal After
Republican Party of Minnesota v. White
Matthew D. Besser 1197

Know Before You Go:
A Case for Publicly Funded Voters' Guides
Cynthia Canary 81

Thoughts on Goldilocks and Judicial Independence
Frank B. Cross 195

Why Judicial Elections Stink
Charles Gardner Geyh 43

Judicial Independence Through the Lens of *Bush v. Gore*:
Four Lessons from Political Science
Howard Gillman 249

Public Funding of Judicial Elections:
The Role of Judges and the Rules of Campaign Finance
Deborah Goldberg 95

When Freedom Isn't Free:
The Costs of Judicial Independence in *Bush v. Gore*
Pamela S. Karlan 265

Keynote Speech:
Electoral Accountability and Judicial Independence
The Honorable Thomas R. Phillips 137

Yet Another Article on *Bush v. Gore*
Ronald D. Rotunda 283

Proposed Legislation on Judicial Election Campaign Finance
Roy Schotland 127

Environmental Law

The Straw that Broke the Camel's Back?
Grand Staircase-Escalante National Monument
Antiquates the Antiquities Act
Eric C. Rusnak 669

Evidence Law

In Defense of the Corpus Delicti Rule
David A. Moran 817

Einstein on the Bench?:
Exposing What Judges Do Not KnowAbout Science and
Using Child Abuse Cases to Improve How Courts
Understand and Evaluate Scientific Evidence
Joëlle Anne Moreno 531

Federalism

The Straw that Broke the Camel's Back?
Grand Staircase-Escalante National Monument
Antiquates the Antiquities Act
Eric C. Rusnak 669

Private Lawmaking
David V. Snyder 371

Intellectual Property Law

From Social Friction to Social Meaning:
What Expressive Uses of Code Tell Us
About Free Speech
David McGowan 1515

Concurrent Use of Trademarks on the Internet:
Reconciling the Concept of Geographically Delimited
Trademarks with the Reality of the Internet
Robert Nupp 617

Internet Law

From Social Friction to Social Meaning:
What Expressive Uses of Code Tell Us
About Free Speech
David McGowan 1515

Concurrent Use of Trademarks on the Internet:
Reconciling the Concept of Geographically Delimited
Trademarks with the Reality of the Internet
Robert Nupp 617

Judicial Independence

Keynote Address:
Thorny Issues and Slippery Slopes:
Perspectives on Judicial Independence
The Honorable Shirley S. Abrahamson 3

Judicial Elections and Judicial Independence:
The Voter's Perspective
Lawrence Baum 13

May I Be Recused? The Tension Between
Judicial Campaign Speech and Recusal After
Republican Party of Minnesota v. White
Matthew D. Besser 1197

Recalibrating Federal Judicial Independence
James J. Brudney 149

Foreword: Perspectives on Judicial Independence
James J. Brudney & Lawrence Baum 1

What Do We Mean by "Judicial Independence"?
Stephen B. Burbank 323

Know Before You Go:
A Case for Publicly Funded Voters' Guides
Cynthia Canary 81

Thoughts on Goldilocks and Judicial Independence
Frank B. Cross 195

Judicial Independence and the Ambiguity of
Article III Protections
Tracey E. George 221

Why Judicial Elections Stink
Charles Gardner Geyh 43

Judicial Independence Through the Lens of *Bush v. Gore*:
Four Lessons from Political Science
Howard Gillman 249

Public Funding of Judicial Elections:
The Role of Judges and the Rules of Campaign Finance
Deborah Goldberg 95

When Freedom Isn't Free:
The Costs of Judicial Independence in *Bush v. Gore*
Pamela S. Karlan 265

Commentary: The Role of the Organized Bar in Promoting an
Independent and Accountable Judiciary
D. Dudley Oldham & Seth S. Andersen 341

A Normative Appraisal of Social Scientific Knowledge
Regarding Judicial Independence
Terri Peretti 349

Keynote Speech:
Electoral Accountability and Judicial Independence
The Honorable Thomas R. Phillips 137

Yet Another Article on *Bush v. Gore*
Ronald D. Rotunda 283

Proposed Legislation on Judicial Election Campaign Finance
Roy Schotland 127

Labor and Employment Law

The Prevention Justification for Affirmative Action
Michael J. Yelnosky 1385

Lawmaking

Private Lawmaking
David V. Snyder 371

Legal Professions

Counselor, Gatekeeper, Shareholder, Thief:
Why Attorneys Who Invest in Their Clients in a Post-Enron
World Are "Selling Out," Not "Buying In"
Christine Hurt 897

Possibilities for Collaborative Law:
Ethics and Practice of Lawyer Disqualification and
Process Control in a New Model of Lawyering
John Lande 1315

Commentary: The Role of the Organized Bar in Promoting an
Independent and Accountable Judiciary
D. Dudley Oldham & Seth S. Andersen 341

Toward a Multiple Party Representation Model:
Moderating Power Disparity
Henry Ordower 1263

Privacy Law

Invasion of Privacy for the Greater Good:
Why *Bartnicki v. Vopper* Disserves the Right of
Privacy and the First Amendment
Ryan Kilkenney 999

Professional Ethics and Standards

New Opportunities for Obtaining and Using
Litigation Reserves and Disclosures
Matthew J. Barrett 1183

Possibilities for Collaborative Law:
Ethics and Practice of Lawyer Disqualification and
Process Control in a New Model of Lawyering
John Lande 1315

Toward a Multiple Party Representation Model:
Moderating Power Disparity
Henry Ordower 1263

Property Law

Eminent Domain Economics:
Should "Just Compensation" Be Abolished, and
Would "Takings Insurance" Work Instead?
Steve P. Calandrillo 451

Regulatory Givings and the Anticommons
Reza Dibadj 1041

Public Records Law

Is There Still a "Sound Legal Basis?":
The Freedom of Information Act in the
Post-9/11 World
Keith Anderson 1605

Is Richmond Newspapers in Peril After 9/11?
Howard W. Chu 1655

Tax Law

New Opportunities for Obtaining and Using
Litigation Reserves and Disclosures
Matthew J. Barrett 1183

Eminent Domain Economics:
Should "Just Compensation" Be Abolished, and
Would "Takings Insurance" Work Instead?
Steve P. Calandrillo 451

The Religious Freedom Peace Tax Fund Act: Becoming
Conscious of the Need to Accommodate Conscience
Colleen M. Garrity 1229

The Interplay Between Norms and
Enforcement in Tax Compliance
Leandra Lederman 1453